

ORIGINAL

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

RECEIVED

JUL 12 1999

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

DOCKET FILE COPY ORIGINAL

In the Matter of)

Implementation of the Local Competition
Provisions in the Telecommunications Act
of 1996)

CC Docket No. 96-98

Petition of Southwestern Bell Telephone Company,
Pacific Bell, and Nevada Bell for Expedited
Declaratory Ruling on Interstate IntraLATA
Dialing Parity or, in the Alternative, Various
Other Relief)

File No. NSD L-98-121

AT&T CORP. COMMENTS ON DIALING PARITY PLAN

Pursuant to the Public Notice issued July 2, 1999 and the Commission's
ILP Order,¹ AT&T Corp. ("AT&T") hereby submits its comments on the intraLATA toll
dialing parity implementation plan filed by Focal Communications Corporation of New
Jersey ("Focal").

First, Focal's New Jersey dialing parity plan appears to propose a process
for interLATA and intraLATA PIC changes that would not comport with the rules

¹ Order, Implementation of the Local Competition Provisions of the
Telecommunications Act of 1996, CC Docket 96-98, FCC 99-54, ¶ 7, released
March 23, 1999 ("ILP Order").

No. of Copies rec'd
List ABCDE

014

established in the Commission's Second Report and Order in CC Docket No. 94-129.² Focal's plan seeks to impose financial penalties on competing carriers that are unable to "produce a Letter of Agency signed by the customer" when the customer "denies requesting a change in intraLATA toll providers."³ However, Section 64.1150 of the Commission's rules⁴ provides that a carrier may submit a PIC change either through a written LOA, electronic authorization, or third party verification. The Second Report and Order holds that these provisions apply to "all changes to a subscriber's preferred carrier, including local exchange, intraLATA toll, and interLATA toll."⁵ In acting on Focal's plan, the Commission should make clear that LECs may not seek to penalize competitors that comply with the requirements of its slamming rules.

Second, Focal's dialing parity plan appears to indicate that Focal intends to send traffic to competing carriers even if those carriers have indicated that they do not wish to serve certain customers:

Focal will route all originating intraLATA traffic to the designated carrier and will only block traffic at the request of the end user customer and/or in compliance

² Second Report and Order and Further Notice of Proposed Rulemaking, Implementation of Subscriber Carrier Selection Changes Provisions of the Telecommunications Act of 1996, CC Docket No. 94-129, released December 23, 1998 ("Second Report and Order").

³ See Focal Communications Corporation of New Jersey, New Jersey IntraLATA Toll Dialing Parity Plan, p. 3 ("Focal Dialing Parity Plan").

⁴ 47 C.F.R. § 64.1150.

⁵ Second Report and Order, ¶ 81.

with regulatory requirements. Requests from carriers to block traffic or to remove customers from their network will not be honored.⁶

To the extent the above-quoted provision purports to require a competing carrier to accept traffic from any LEC customer that the LEC elects to send to that competitor, it is improper. This is made clear by the Commission's Second Local Competition Order.⁷ In that order the Commission addressed a claim by Lincoln Telephone that in order to be eligible to receive intraLATA dialing parity a competing provider must agree to serve every end office in a LATA.⁸ The Commission rejected this contention, concluding that Congress did not intend to "condition a carrier's right to receive the benefits of dialing parity upon its assuming the obligation[]" to provide service to all end offices.⁹ The Commission thus clearly recognized that an IXC has the right to choose which end offices it wishes to serve.¹⁰ Indeed, Focal's dialing parity plan also appears to acknowledge this holding, as it provides that carriers obtaining dialing parity from Focal "will have the option of participating in all market areas or in a specific market

⁶ Focal Dialing Parity Plan, p. 2.

⁷ Second Report and Order and Memorandum Opinion and Order, Implementation of the Local Competition Provisions of the Telecommunications Act of 1996, 11 FCC Rcd. 19392 (1996) ("Second Local Competition Order").

⁸ See Second Local Competition Order at 19409, ¶ 28.

⁹ Id. at 19410, ¶ 30.

¹⁰ AT&T discussed these issues at greater length in its Revised Proposed Findings of Fact And Conclusions of Law of AT&T Corp., filed July 2, 1999 in MGC

(footnote continued on following page)

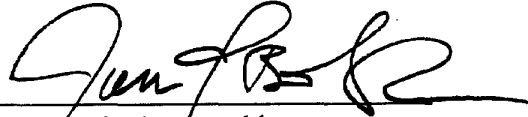
area."¹¹ The Commission should confirm its prior rulings permitting carriers to elect not to provide interLATA or intraLATA toll services to a particular end office.

CONCLUSION

AT&T respectfully requests that the Commission direct Focal to amend or clarify its intraLATA dialing toll parity implementation plan to correct the deficiencies noted above.

Respectfully submitted,

AT&T CORP.

By 
Mark C. Rosenblum
Roy E. Hoffinger
James H. Bolin, Jr.

Its Attorneys

295 North Maple Avenue
Room 3245H1
Basking Ridge, NJ 07920
(908) 221-4617

July 12, 1999

(footnote continued from previous page)

Communications v. AT&T Corp., File No. EAD-99-002, which it hereby incorporates by reference into the instant pleading.

¹¹ Focal Dialing Parity Plan, p. 1.